

REGULAR CITY COUNCIL MEETING
AUGUST 14, 2000

PRESENT

R. Dale Roper
Wesley Bloomfield
Gayle Bunker
Bruce Curtis
Robert Dekker
Glen Swalberg

Mayor
Council Member
Council Member
Council Member
Council Member
Council Member

ABSENT

None

ALSO PRESENT

Gregory Jay Schafer
Neil Forster
Judy Baker
Richard Waddingham
Louise Lyman
Reggie Bliss
Tom Callister
Barbara Callister
Joe Morris
Grayce Pace
Gail Erichsen
Ewald Erichsen
Anne Stoddard
Stephen Stoddard
Linda Beard
Pam Smith
Nancy Church
Nan Nielson
D. Scott Nickle

City Recorder
Public Works Director
City Treasurer
City Attorney
City Resident
City Resident
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City Resident

Mayor Roper called the meeting to order at 7:00 p.m. He stated that notice of the meeting time, place, and agenda was posted at the principal office of the governing body, located at 76 North 200 West, and was provided to the Millard County Chronicle/Progress, KNAK Radio, and to each member of the City Council at least two days prior to the meeting.

Council Member Bruce Curtis offered an invocation, after which Mayor Roper led those in attendance in the Pledge of Allegiance.

MINUTES

The proposed minutes of a Regular City Council Meeting held July 10, 2000 were presented for consideration and approval. Following discussion, Council Member Wesley Bloomfield MOVED to approve the minutes of the Regular City Council Meeting held July 10, 2000, as presented. The motion was SECONDED by Council Member Glen Swalberg. Mayor Roper asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

ACCOUNTS PAYABLE

The Council reviewed the accounts payable, a copy of which had been given to them two days prior to the meeting. Mayor Roper explained that this batch of accounts payable is a larger amount than normal due to items such as a payment of \$4,334.09 representing motor fuel taxes paid to Cardwell Distributing for 1996, 1997, 1998, 1999 and part of 2000. The payment is being made at this time because Cardwell did not have the proper paperwork completed for card/ key lock approval by the State of Utah. The funds will be paid by Cardwell to the State of Utah and the funds will ultimately be refunded to Delta City by the State of Utah. The vendor currently being used by Delta City is State approved, which will eliminate occurrence of this situation in the future. Also included in the accounts payable is a portion of the SCADA water and sewer monitoring system, in the amount of \$38,000; asphalt chip seal in the amount of \$43,000, and annual liability insurance in the amount of approximately \$40,000.

Following discussion, Council Member Robert Dekker MOVED to approve the accounts payable, in the amount of \$345,918.12. The motion was SECONDED by Council Member Gayle Bunker. Mayor Roper asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

UNEFINISHED BUSINESS

There were no items of unfinished business on the agenda.

NEW BUSINESS

TOM CALLISTER: DEBRIS ON PROPERTY LOCATED AT APPROXIMATELY 107 NORTH 100 EAST

Mr. Callister advised the Council that he was returning to the Council to discuss the same problem he had discussed in the past: the Erichsen property, located at 107 North 100 East. Mr. Callister felt that the amount of debris on the property was increasing rather than being cleaned up and requested that the City Council take action to enforce City ordinances which require that property be kept neat and orderly.

Mayor Roper advised Mr. Callister that the matter of debris on the property referred to had been forwarded to the City Attorney for action and that the reason that Mr. and Mrs. Erichsen were in

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attendance at the meeting was due to their receipt of notice from the Delta City Nuisance Inspector to remove debris from the property.

Several other individuals who were in attendance, and who live in close proximity to the property, expressed their concern over the weeds and debris on the property, as well as the Erichsen's dogs.

GAIL ERICHSEN: LETTER RECEIVED FROM DELTA CITY

Mrs. Erichsen articulated an emotional response to those who had made accusations regarding their dogs and stated that the dogs were not dangerous to anyone and, in fact, were very good with children. Mayor Roper asked that Mr. and Mrs. Erichsen refrain from a debate over the dogs, inasmuch as the Council was more interested in addressing the problem of weeds and debris in their yard.

Mr. Erichsen requested that the Council advise him of specific items which should be removed from the property. Council Member Wesley Bloomfield asked who would make recommendations regarding items to be removed. Mayor Roper advised the Council that the decision of items to be removed was addressed by Delta City Ordinances. Public Works Director Forster is designated as the Nuisance Officer for Delta City.

City Attorney Richard Waddingham asked Mr. and Mrs. Erichsen whether anyone was living anywhere on the premises, outside of the main structure. Mrs. Erichsen responded that no one was living outside the main structure; that a travel trailer was parked near the home, but it is used for storage. Mr. Erichsen informed the Council that his son goes into the trailer occasionally, but no one lives in there. City Attorney Waddingham asked about black tarps which are draped over some of the property. Mr. Erichsen stated that he had tarps draped over some items in the back of the house. Mr. Erichsen said that the items under the tarps would be easy to move, but he has not yet moved them because he has been ill.

City Attorney Waddingham noted that, approximately one year ago, the Erichsens were served with a notice requiring clean up of the property. At that time, Mr. Erichsen came before the Council to request additional time to complete the clean up; the additional time was granted by the Council. City Attorney Waddingham advised Mr. Erichsen that, at that time, he believed that the property was going to be cleaned up and no further action would be required. However, when Mr. Callister complained about the property a second time, approximately two months ago, Delta City personnel confirmed that there had been no appreciable change in the property's appearance from the previous year. At that time, Delta City served another notice on the Erichsens, again requesting that the property be cleaned up, and the Erichsens have now requested a hearing before the City Council, which is the purpose for their appearance at this time. City Attorney Waddingham noted that, while some progress may have been made, there are certain items which need to be addressed, such as automobiles, personal property and equipment on the property which, it appears, have been covered by tarps in an attempt to cure the problem. Unregistered vehicles and other property must be kept or maintained in a manner consistent with Delta City Ordinances. City Attorney Waddingham stated that, as of this time, neither the unregistered vehicles, nor the personal property, have been kept or

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maintained in accordance with Delta City Ordinances.

City Attorney Waddingham advised the Erichsens that there are two procedures available to Delta City to enforce the nuisance violations. The first procedure would require Delta City to provide the property owner with a list of specific items which need to be removed or cleaned up on the premises. If the property owner fails to cure the nuisance violation, Delta City would then have the right to go onto the property and remove those items, or otherwise abate the nuisance. If Delta City undertakes the responsibility of abating the nuisance, the cost of labor and equipment could be assessed against the property owner. If the property owner refuses to make payment to Delta City for the cost and expenditures made to abate the nuisance, as required by law, the City Nuisance Inspector, on behalf of Delta City, may cause suit to be brought in an appropriate court of law for all costs and expenses incurred in the removal of the property or destruction of objects or structures, together with reasonable attorney's fee, interest, and court costs. In the alternative, the Nuisance Inspector may refer the matter to the County Treasurer for inclusion of such costs on the property owner's tax notice, whereupon the property owner would have the option of appealing to the County Commissioners for a hearing to determine whether the costs are appropriate.

The second procedure which could be used, and the one advocated by City Attorney Waddingham, would be to bring a civil action into the Fourth Judicial District Court, in Fillmore, Utah, to obtain an order from the Judge specifying what items must be removed. State law allows that structures, as well as equipment or objects, can be abated.

City Attorney Waddingham advised Mr. and Mrs. Erichsen that, if they would remove these items themselves, it would eliminate considerable time and costs.

Mr. Erichsen requested that he be given a list of items to be removed and stated that he would take care of removal. City Attorney Waddingham asked Mr. Erichsen if he would give consent for Delta City personnel to inspect the premises for the purpose of making a list of items which should be removed. Mr. Erichsen agreed to having the premises inspected by Delta City and invited them to come to the premises on Tuesday, August 15th.

Council Member Wesley Bloomfield MOVED to assign Public Works Director/Nuisance Officer Neil Forster and Council Member Robert Dekker to visit the Erichsen property for the purpose of inspecting the property and making a list of items which should be removed from the premises. The motion was SECONDED by Council Member Glen Swalberg. Mayor Roper asked if there were any comments or questions regarding the motion. Mayor Roper stated that there have been some comments made with reference to alleged wrongdoings of the Erichsens and he wanted to state, for the record, that these are allegations only, inasmuch as the Erichsens have not been convicted of any wrongdoing. Mayor Roper then called for a vote. The motion passed unanimously.

Mr. Scott Nickle requested that he be allowed to make a statement to the Council. Mr. Nickle felt

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that his reputation had been damaged as a result of selling property to the Erichsens. He offered an apology for the condition of the property but stated that, as the holder of the sales contract, he has no right to enter upon the property for the purpose of cleaning the property. City Attorney Waddingham advised those in attendance that Mr. Nickle has done everything he can, legally, to encourage the Erichsens to alleviate the problem.

COUNCIL MEMBER GAYLE BUNKER/CECIL LOSEE: PROPOSED SINGLE LOT SUBDIVISION LOCATED AT APPROXIMATELY 144 NORTH 400 WEST

Council Member Bunker stated that, prior to this meeting, a public hearing was held for the purpose of receiving public comment regarding Mr. Losee's proposed Single Lot Subdivision located at approximately 144 North 400 West. Mr. Losee is requesting permission to subdivide the lot in order to separate the home from the warehouse which is on the property. This subdivision will allow sale of the home and allow Mr. Losee to retain ownership of his warehouse. There were no negative comments received at the public hearing. Council Member Gayle Bunker MOVED to approve the Losee One Lot Subdivision, located at approximately 144 North 400 West. The motion was SECONDED by Council Member Bruce Curtis. Mayor Roper asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

COUNCIL MEMBER GAYLE BUNKER/LOUISE LYMAN: PROPOSED SUBDIVISION LOCATED AT APPROXIMATELY 254 NORTH 500 WEST

Council Member Bunker advised the Council that Mrs. Lyman is requesting permission to separate two lots from her current property; one located at the northwest corner of the property and one on the southeast corner of the property. The Planning & Zoning Commission recommended that the City Council schedule a public hearing, for the purpose of receiving public comment regarding the proposed subdivision, and recommended approval of the subdivision, with the condition that an Improved Lot Agreement be signed. Council Member Bunker MOVED to set a public hearing on Monday, September 11, 2000 at 6:45 p.m. for the purpose of receiving public comment regarding the proposed Lyman Subdivision, located at approximately 254 North 500 West. The motion was SECONDED by Council Member Robert Dekker. Mayor Roper asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

CITY ATTORNEY RICHARD WADDINGHAM: REPEAL OF RESOLUTION NO. 83-86 AMENDING THE POLICY DECLARATION STATEMENT FOR ANNEXATION AND THE DELTA CITY MASTER ANNEXATION POLICY DECLARATION

Mayor Roper explained to the Council that the annexation laws in the State of Utah have changed, making necessary some changes in the Delta City Annexation Ordinance. Mayor Roper and City

Attorney Waddingham would like to make these changes prior to addressing the Droubay/Bunker Petition for Annexation. City Attorney Waddingham distributed copies of a proposed Resolution repealing Resolution 83-86 and reviewed the proposed Resolution with the Mayor and Council. He noted that Utah law no longer requires a Policy Declaration Statement as a prerequisite for annexation. Under current Delta City ordinance, every annexation to Delta City requires Policy Declaration Statements, Evaluation Statements and Opinion Letters which are extremely time consuming but are not necessary under Utah law. City Attorney Waddingham advised the Council that this proposed resolution will negate the requirement for these time consuming and unnecessary procedures and will allow Delta City to adopt new standards and procedures for annexation of territory.

Following discussion of the proposed resolution, Mayor Roper felt that further action on the proposed Resolution should be tabled at this time in order to allow City Attorney Waddingham and Zoning Officer Neil Forster an opportunity to revise the annexation requirements for Delta City. Council Member Glen Swalberg MOVED to table further discussion of this proposed resolution until the next meeting of the City Council. The motion was SECONDED by Council Member Gayle Bunker. Mayor Roper asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

OTHER BUSINESS

Council Member Glen Swalberg reported that volunteers have been working on the Van's Hall restoration project and they are at a point now where water is needed. Council Member Swalberg contacted Alan Jenkins to turn on the water at Van's Hall when he was unable to contact Public Works Director Forster or Assistant Public Works Director Alan Riding. Council Member Swalberg indicated that the restoration project has limited funds and requested assistance from Delta City with payment of water fees. Mayor Roper and Public Works Director Forster advised Council Member Swalberg that the terms of the Delta City water bond require that all water service be charged through a meter. Public Works Director Forster advised the Council that the sewer bond has been retired, which would allow the Council the discretion to waive sewer fees for the building.

Council Member Robert Dekker mentioned that Delta City does not have an ordinance restricting ownership of Pit Bull dogs and requested that an ordinance be adopted. Council Members also requested that City Attorney Waddingham incorporate a maximum length for a dog leash.

Mayor Roper asked if there were any other comments, questions, or items to be discussed. There being none, Council Member Robert Dekker MOVED to adjourn the meeting. The motion was

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SECONDED by Council Member Glen Swalberg. Mayor Roper asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.


R. DALE ROPER, Mayor


GREGORY JAY SCHAFFER, City Recorder

MINUTES APPROVED: RCCM 09-11-00